IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

And
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT APPEAL NO : 1318 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 04/08/2004 in WP No: 13601 OF 2004 on the file of the High Court.)

Between:

1 Sri Subash Kapoor, S/o Late Bankat Prasad,
R/o H.No.14-11-1060, Godeki Khabhar, Nayabasti,
Hyderabad
2 Sudershan Raj, S/o Late Bankat Prasad,
R/o H.No.14-11-1060, Godeki Khabhar, Nayabasti,

Hyderabad

..... APPELLANTS

AND

1 The Commissioner of Endowments, Endowments Department, Hyderabad
2 The Deputy Commissioner of Endowments, Endowments Department, Hyderabad
3 The Assistant Commissioner of Endowments, Endowments Department, Hyderabad
4 The Single Trustee, Sri Mahadevji (Shiva) Temple, Beerbanbagh, Shahinayatgunj, Hyderabad

...RESPONDENTS

Counsel for the Appellant: MR.T.SRIKANTH REDDY

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court made the following:

ORDER: (Per Sri B. Sudershan Reddy, J)

We find no merit in this writ appeal requiring our interference. It is a well-considered order passed by the learned single judge dismissing the writ petition. The learned counsel for the appellants-writ petitioners contended that the proceedings in O.A.16 of 2003 on the file of the Deputy Commissioner, Endowments, Hyderabad, are hit by the principle of *res judicata* since the very same issues that arise for consideration have already been dealt with by a competent court of civil jurisdiction in O.S.No.1227 of 1981 on the file of V Additional Judge, City Civil Court, Hyderabad, and therefore, the proceedings cannot be allowed to go on, on the file of the Deputy Commissioner Endowments, Hyderabad.

We are not impressed by the contention made by the learned Counsel for the appellants. The question whether the proceedings in O.A.No.16 of 2003 are hit by the principle of *res judicata* is required to be gone into by the Deputy Commissioner, Endowments for which purpose an appropriate issue shall be framed for its consideration. The Deputy Commissioner rightly dismissed I.A.No.99 of 2003 filed by the petitioners herein seeking dismissal of the main O.A. itself.

Interest of justice would be met by directing the Deputy Commissioner of Endowments to frame appropriate issues including the issue as to whether the present proceedings are hit by the principle of *res judicata* and dispose of the same in accordance with law un-influenced by the observations made by him while dismissing the Interlocutory Application and as well as the observations, if any, made in the order passed by the learned single judge.

With the above observations, the writ appeal stands dismissed.

(B. SUDHARSHAN REDDY, J)

(K.C. BHANU, J)

es/ks

To

1 The Commissioner of Endowments, Endowments Department, Hyderabad
2 The Deputy Commissioner of Endowments, Endowments Department, Hyderabad
3 The Assistant Commissioner of Endowments, Endowments Department, Hyderabad

4 The Single Trustee, Sri Mahadevji (Shiva) Temple, Beerbanbagh, Shahinayatgunj, Hyderabad

5. 2 CCs to the Government Pleader for Endowments, High Court Buildings, Hyderabad (OUT).

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